

WRITTEN COMMENTS OF
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TO THE

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS

HEARING ON

TAX REFORM AND TAX-FAVORED RETIREMENT ACCOUNTS

HEARING HELD ON APRIL 17, 2012

Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to submit these written comments on Tax Reform and Tax-Favored Retirement Accounts. I am an ERISA attorney and a former member of the ERISA Advisory Council, appointed to that position by the U.S. Secretary of Labor. This statement should be attributed to me alone.

For the sake of brevity, I will limit my comments and submit them in a bullet point format.

- Most Americans need to save more for retirement.
- At least two persons who testified at the hearing may have suggested that deferrals under a retirement plan qualified under I.R.C. § 401(a) *et. seq.* are tax-deferred only, and that such deferrals do not escape or evade taxation because all benefits are taxed upon distribution from the trust. At least two well-respected law review articles indicate, however, that trust earnings in a qualified plan can be considered permanently exempt from tax. See Daniel I. Halperin, *Interest in Disguise: Taxing the "Time Value of Money,"* 95 Yale L.J. 506, 520 - 24 (1986); William D. Andrews, A Consumption-Type or Cash Flow Personal Income Tax, 87 Harv. L. Rev. 1113, 1126 (1974).
- As the ERISA Advisory Council concluded in 2010, there appears to be a great need to bring more members of traditionally under-served segments of the population, such as women and minorities, into the private retirement system. See 2010 ERISA Advisory Council Report, *Disparities for Women and Minorities in Retirement Savings*, available at <http://www.dol.gov/ebsa/publications/2010ACreport3.html>. To address this and similar issues, the Office of the President has proposed auto-IRAs. A far more efficient, and far less costly, approach would be auto-supplemental wage withholding.

Sincerely,

Kevin A. Wiggins